
(1975) 01 AHC CK 0023

Allahabad High Court

Case No: Criminal Miscellaneous Case No. 1885 of 1975

Ram Kumar

APPELLANT

Vs

State

RESPONDENT

Date of Decision: Jan. 1, 1975

Hon'ble Judges: K.B.Asthana, J

Final Decision: Allowed

Judgement

Asthana, C. J.

Heard learned counsel for the applicant and the learned Government Advocate. Inspite opportunities having been afforded to the prosecution to produce documentary evidence by way of memorandum prepared at the time of the speech allegedly offending provision of the D. I. R. nothing has been done. The learned Government Advocate argued that it is not necessary to keep or prepare any memorandum of offending speech. This leads that court has always to rely on the mere memory of the police officer to credit him with such a memory that he can remember each and every word of hundreds citizens making and taking speeches. It was then argued that what is given in the F. I. R. if it makes out a case it is sufficient. I do not agree. It is always open to a court to satisfy itself to call for material with the prosecution which would be prima facie evidence ultimately in the case. As stated above to rely on mere memory would not be in the interest of justice.

In the circumstances I direct that the applicant Ram Kumar to be released on bail on his furnishing adequate sureties and personal bond of the like amount to the satisfaction the Chief Judicial Magistrate, Barabanki.